

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

H. BEATTY CHADWICK,
Plaintiff

v.

Civil No. 03-30-P-C

BARBARA JEAN CROWTHER
CHADWICK a/k/a BARBARA
APPLEGATE,
Defendant

Gene Carter, Senior District Judge

MEMORANDUM OF DECISION AND ORDER

Now before the Court is Defendant's Motion to Dismiss the Complaint ("Motion to Dismiss") filed by her former husband H. Beatty Chadwick. (Docket Item No. 8).

Defendant makes this motion pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), alleging both that this Court lacks subject matter jurisdiction to decide this case and that Plaintiff's Complaint fails to state a claim upon which relief can be granted.

This Court finds that it lacks jurisdiction over Plaintiff's claims pursuant to the *Rooker-Feldman* doctrine and, accordingly, will grant Defendant's Motion to Dismiss.

I. Background

In November of 1992, Defendant Barbara Jean Crowther Chadwick filed for divorce from Plaintiff H. Beatty Chadwick in the Court of Common Pleas of Delaware County, Pennsylvania. Complaint and Demand for Jury Trial ("Complaint") (Docket Item No. 1) ¶ 6. During an equitable distribution conference in February of 1993,

Plaintiff revealed that he had unilaterally transferred \$2,502,000 of the marital estate to a partnership in Gibraltar, allegedly to satisfy a debt. *See Chadwick v. Janecka*, 312 F.3d 597, 599 (3d Cir. 2002).¹ After it was discovered that the Gibraltar partnership had returned approximately \$2,000,000 to an American bank account and a Swiss bank account, both in Plaintiff's name,² and that \$550,000 in stock certificates that Plaintiff claimed he had transferred to an unknown barrister in England to forward to the Gibraltar partnership were never received, the Pennsylvania divorce court determined that Plaintiff had transferred the money in an attempt to defraud Defendant and the court. *Id.* at 600. In an order dated July 22, 1994, the state court ordered Plaintiff to return the approximately 2,500,000 to a court-administered account to be held in escrow pending further order of the court. Order attached as Exhibit C to Motion to Dismiss. The court further ordered Plaintiff to pay \$75,000 to Defendant in attorney's fees and to surrender his passport; and the order enjoined him from further assigning and dissipating marital assets and from leaving the jurisdiction until further order of the court. *Id.*

When Plaintiff did not comply with the July order, Defendant filed a Petition for Contempt and for Writ of *Ne Exeat* or Writ of *Capias Ad Satisfaciendum*. Plaintiff was personally served with a subpoena directing his appearance at a hearing on the petition, as was his attorney. *See* Order attached as Exhibit D to Motion to Dismiss. Plaintiff failed to appear at the hearing, but he was represented by counsel. By order dated

¹ "A court may look to matters of public record in deciding a Rule 12(b)(6) motion without converting the motion into one for summary judgment." *Boateng v. InterAmerican University, Inc.* 210 F.3d 56, 60 (1st Cir. 2000) (*citing Watterson v. Page*, 987 F.2d 1, 3-4 (1st Cir.1993)). And, "a court ordinarily may treat documents from prior state court adjudications as public records." *Id.* (*citing Henson v. CSC Credit Servs.*, 29 F.3d 280, 284 (7th Cir.1994) (collecting cases)).

² It was also discovered that the money deposited in the American bank account was used to purchase three insurance annuity contracts that were later redeemed by Plaintiff and deposited in a Panamanian bank. *Chadwick*, 312 F.3d at 599-600.

November 2, 1994, Plaintiff was found to be in contempt for willful violations of the order of July 22, 1994, and the judge issued a warrant for Plaintiff's arrest. *See id.* Because Plaintiff had fled the jurisdiction, a hearing was held in Plaintiff's absence on August 29, 1994, after which the state trial court ordered his bank accounts frozen and directed all funds held in his name to be held in escrow pending final resolution of the divorce proceeding. *See Chadwick v. Chadwick*, Nos. 1855-EDA-2001 & 1413-EDA-2001, slip op. at 2 (Pa. Super. Ct. Apr. 4, 2002) attached as Exhibit E to Motion to Dismiss. In addition, Defendant successfully sought the attachment of two spendthrift trusts from which Plaintiff, as a life income beneficiary, received semi-annual cash distributions. *Id.*

On April 5, 1995, Plaintiff returned to Pennsylvania and was arrested for contempt of the court order requiring him to return the \$2,500,000 to Pennsylvania. The state court determined Plaintiff had the ability to comply with the terms of the July 1994 order, and it set his bail at \$3,000,000. *Chadwick*, 312 F.3d at 600. The money has never been returned and, as a result, Plaintiff has been incarcerated in the Delaware County Prison since 1995 and the divorce action has not been resolved finally. *Chadwick v. Chadwick*, slip op. at 3.

Since his incarceration in 1995, Plaintiff has filed eight state petitions and six federal petitions for relief, seeking his release.³ Most recently, on February 3, 2003, the

³ "The state petitions include: (1) an emergency petition for release, which was denied by the Court of Common Pleas and affirmed by the Superior Court; (2) six state *habeas* petitions, all of which were denied; and (3) a petition for release from imprisonment or, in the alternative, house arrest, which was denied." *Chadwick*, 312 F.3d at 600 n. 1. "The federal petitions include: (1) an emergency motion for injunctive relief pursuant to 42 U.S.C. § 1983, which was denied because abstention was appropriate under the doctrine of *Younger v. Harris*, 401 U.S. 37, 91 S. Ct. 746, 27 L. Ed. 2d 669 (1971); (2) an emergency motion pursuant to 42 U.S.C. § 1983, which was denied, or, in the alternative, *habeas corpus* under 28 U.S.C. § 2241, which was dismissed for failure to exhaust state remedies; (3) a third federal *habeas* petition, which was denied for failure to exhaust state remedies; (4) a petition for reconsideration of the

Court of Common Pleas of Delaware County, Pennsylvania denied an appeal from a *habeas* petition filed by Plaintiff in which he contended that the orders of July 22, 1994, and November 2, 1994, were improperly entered and, thus, that his imprisonment was unlawful. *See Chadwick v. Caulfield*, No. 02-80287, slip op. at 1 (C.P. Delaware County Feb. 3, 2003) attached as Exhibit B to Motion to Dismiss. In denying the appeal, the court specifically cited the lower court's finding that Plaintiff's "claim that he does not have the ability to obey [the] July 22, 1994, Order completely lacks credibility." *Id.* at 4.

The court noted that

[t]he evidence presented by Intervenor/Wife at every hearing in this matter clearly established that Petitioner Chadwick has failed to comply with any of the provisions of the July 22, 1994 Order; his failure to comply has been willful and demonstrates his disdain for the authority of the Court. Although having ample opportunities to do so, Appellant/Petitioner has failed to present any credible evidence to the contrary.

Id. at 7. The court further found that Plaintiff's "failure to comply with the July 22, 1994 Order is based solely upon his desire to deprive Intervenor/Wife of her portion of the marital assets." *Id.* at 9. Finally, the Pennsylvania court found that given all of Plaintiff's appeals and petitions for writ of *habeas corpus*, he had the opportunity to contest the validity of the July 22, 1994, Order, to comply with that order, and/or to present evidence as to his alleged inability to comply with that order, at the numerous *habeas corpus* hearings and the regular hearings held on the contempt but had failed to do so. *See id.* at 18. Therefore, the court upheld the denial of his *habeas* petition.

In the instant action, Plaintiff's six-count complaint against his former wife raises a variety of claims. First, Plaintiff has made a claim under 42 U.S.C. § 1983, asserting

dismissal of the third federal *habeas* petition, which was also denied for failure to exhaust state remedies; (5) a fourth federal *habeas* petition, which was also denied for failure to exhaust state remedies; and (6) a fifth federal *habeas* petition," which was denied. *Id.* at 600 n. 2.

that Defendant has acted under color of state law to deprive Plaintiff of his rights under the United States Constitution. Specifically, he contends that he has been deprived of his liberty and property without due process of law. *See* Complaint ¶¶ 26-29. Second, Plaintiff asserts a claim of wrongful imprisonment, alleging that Defendant has caused and continues to cause his unlawful imprisonment. *See id.* ¶¶ 30-33. Third, Plaintiff presents an abuse of process claim, contending that Defendant has utilized court procedures for an improper purpose; specifically, to deprive Plaintiff of his liberty and property. *See id.* ¶¶ 34-37. Fourth, Plaintiff claims that Defendant’s actions in causing Plaintiff to be continuously imprisoned for more than seven years is extreme and outrageous and that Defendant intentionally and/or recklessly has inflicted emotional distress upon Plaintiff. *See id.* ¶¶ 38-40. Fifth, Plaintiff alleges that Defendant has converted his property without his consent and lawful justification. *See id.* ¶¶ 41-44. Finally, Plaintiff makes a claim of civil conspiracy, contending that Plaintiff, her lawyers, and others conspired to do all of the above. *See id.* ¶¶ 45-46. Plaintiff requests that Defendant pay compensatory and punitive damages for his injuries and losses; he further asks for an injunction enjoining Defendant and others “from further acting so as to deprive Plaintiff of his constitutional and civil rights.” *Id.* at 8, ¶¶ A-B.

II. Discussion

Defendant has moved to dismiss Plaintiff’s complaint, and she asserts several bases upon which she requests this Court to do so. Her first claim is jurisdictional, claiming this Court lacks jurisdiction to rule upon Plaintiff’s claims under the *Rooker-Feldman* doctrine. Next, Defendant argues that even if this Court finds it has jurisdiction over Plaintiff’s claims, it should dismiss Plaintiff’s Complaint because, under the

doctrine known as *Younger* abstention, this Court's exercise of jurisdiction would disrupt the ongoing divorce proceedings in Pennsylvania state court. Finally, Defendant makes three final arguments for why Plaintiff's claims should be dismissed: (1) his exclusive remedy in a case like this is *habeas corpus*, (2) collateral estoppel bars his claims, and (3) his allegations fail to state any claim for relief under state law. Motion to Dismiss at 2. Because it is jurisdictional, this Court must first consider the *Rooker-Feldman* doctrine, and whether that doctrine precludes this Court from exercising subject matter jurisdiction over Plaintiff's claims in this case. See *Stanton v. District of Columbia Court of Appeals*, 127 F.3d 72, 75 (D.C. 1997). See also *In re Middlesex Power Equipment & Marine, Inc.*, 292 F.3d 61, 66 n.1 (1st Cir. 2002) (*quoting Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583, 119 S. Ct. 1563, 143 L. Ed. 2d 760 (1999) ("Article III generally requires a federal court to satisfy itself of its jurisdiction over the subject matter before it considers the merits of a case.")).

The *Rooker-Feldman* doctrine prohibits federal district and circuit courts from reviewing the decisions of state courts.⁴ See *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S. Ct. 149, 68 L. Ed. 362 (1923) and *D.C. Ct. of App. v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983). Where a claim was not actually presented before a state court, the doctrine further prohibits lower federal court jurisdiction over those claims that are "inextricably intertwined" with the claims adjudicated in state court. See *Feldman*, 460 U.S. at 483 n. 16, 103 S. Ct. at 1316 n.16. The determination as to whether a claim in federal court is inextricably intertwined with one previously presented in state court is a difficult one, and one with which numerous courts have struggled. Most recently in the First Circuit, the Court of Appeals has stated that

⁴ Such jurisdiction is vested exclusively in the Supreme Court. See 28 U.S.C. § 1257.

[i]t is not necessary that the federal action formally seek to invalidate the state judgment; it is enough if the federal action would in substance defeat or negate a state judgment, for example if “the federal claim succeeds only to the extent that the state court wrongly decided the issues before it.”

Mandel v. Town of Orleans, 326 F.3d 267, 271 (1st Cir. 2003) (quoting *Hill v. Town of Conway*, 193 F.3d 33, 39 (1st Cir. 1999) (internal citations omitted)). If, in essence, a plaintiff in federal court seeks to “undo the consequences” of the state court judgment, jurisdiction is prohibited under *Rooker-Feldman*. See *Wilson v. Shumway*, 264 F.3d 120, 125 (1st Cir. 2001).

In the instant case, Plaintiff has made an artful attempt to circumvent the *Rooker-Feldman* doctrine. However, after careful consideration, the Court finds that his effort is unavailing of success. Plaintiff has crafted his Complaint so that it appears he is not attacking the state court judgment. First, he states that, unlike his fourteen *habeas* petitions, here he does not seek release from confinement and, therefore, is not seeking to disrupt or undo the prior state court judgment confining him for contempt. Plaintiff differentiates his suit in this Court by highlighting the fact that separate and apart from the state court’s finding that he is in contempt, here he is seeking monetary damages from *Defendant* and an injunction against *Defendant* preventing her from “future interference with Plaintiff’s constitutional and civil rights.” Plaintiff’s Objection to Defendant’s Motion to Dismiss with Incorporated Memorandum of Law (“Plaintiff’s Objection to Motion to Dismiss”) (Docket Item No. 10) at 9. He further argues that his claims are not inextricably intertwined with the state court judgment because, unlike the state court proceedings, the issue here is not whether he has the ability to comply with the July 1994

order, but whether Defendant acted wrongfully by pursuing the contempt proceeding and intervening in his *habeas corpus* petitions. *See id.* at 8.

However, the Court finds that those issues *are* inextricably intertwined with the state court judgment and that Plaintiff's attempt to direct his Complaint toward Defendant does not save his suit from, in fact, being an attack on the state court judgment. First, by asserting these claims, Plaintiff seeks "in substance [to] defeat or negate" both the state court finding that Plaintiff has the ability to deposit the \$2,500,000 and the subsequent contempt order for Plaintiff's failure to do so. *See Mandel*, 326 F.3d at 271. All of Defendant's actions that Plaintiff complains of – violating his civil rights, causing his wrongful imprisonment, abusing the civil process, intentionally or recklessly inflicting emotional distress upon Plaintiff, converting his property, and conspiring to do all of the above – were actions she took pursuant to her legal rights.⁵ That is, they were all actions

⁵ The Court notes that Plaintiff's claim that Defendant violated his constitutional rights under 42 U.S.C. § 1983 necessarily fails because there is no state action. *See Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 95 S. Ct. 449, 42 L. Ed. 2d 477 (1974). Section 1983 allows actions for "deprivation of any rights, privileges, and immunities secured by the Constitution and laws." 42 U.S.C. § 1983. A vital element of any § 1983 claim is that the plaintiff show deprivation caused by a person acting "under color of state law." *Id.* Usually, this means a Plaintiff must show state action, and actions against a private individual are rarely permitted. *See Destek Group, Inc. v. State of New Hampshire Public Utilities Comm'n*, 318 F.3d 32, 39-40 (1st Cir. 2003); *see also Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 935, 102 S. Ct. 2744, 73 L. Ed. 2d 482 (1982). "Only when a private individual's conduct can be deemed 'fairly attributable to the State' will a § 1983 cause of action exist against that individual." *Destek Group*, 318 F.3d at 40 (*quoting Lugar*, 457 U.S. at 937, 102 S. Ct. 2744 and *Gonzalez-Morales v. Hernandez-Arencibia*, 221 F.3d 45, 49 (1st Cir. 2000)).

In *Gonzalez-Morales*, the Court of Appeals for the First Circuit explained that this "fair attribution" test requires both a state policy and a state actor. *Gonzales-Morales*, 221 F.3d at 49. The state policy component requires that the deprivation "be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the State or by a person for whom the State is responsible." *Id.* (*quoting Lugar*, 457 U.S. at 940, 102 S. Ct. 2744). The state actor component requires that "the party charged with the deprivation must be a person who may fairly be said to be a state actor." *Id.* Finally, a defendant may be a state actor because he is a state official, because he acted together with a state official, or because his conduct is otherwise chargeable to the state. *Id.* (*citing Casa Marie, Inc. v. Superior Court of Puerto Rico*, 988 F.2d 252, 258 (1st Cir. 1993)). Significantly, "something more than mere resort to a state court is required" to transform a private action into state action for purposes of § 1983. *Casa Marie, Inc.*, 988 F.2d at 259.

she took in light of the July 22, 1994, state court judgment ordering Plaintiff to pay 2,500,000 into a court-administered account and the November 2, 1994, contempt order. See Order attached as Exhibit C to Motion to Dismiss and Order attached as Exhibit D to Motion to Dismiss. The money ordered to be deposited into the account was part of the marital estate intended to be equitably distributed by the divorce court. See *Chadwick*, 312 F.3d at 599. Defendant is entitled to pursue a petition for contempt given her potential right to a portion of this money. Asserting that Defendant acted *wrongfully* in pursuing these rights necessarily implicates the state court's decision finding Plaintiff in contempt. In so doing, while not formally seeking to invalidate the state judgment, such an action does seek "in substance [to] defeat or negate [the] state judgment." *Mandel*, 326 F.3d at 271.

Arguing that his case should not be barred by *Rooker-Feldman*, Plaintiff cites *Nesses v. Shepard*, 68 F.3d 1003 (7th Cir. 1995). In *Nesses*, plaintiff brought suit in federal court against the opposing counsel and some of the judges involved in a breach of contract case that he lost in state court, alleging that they conspired together to engineer

(footnote continued. . .)

Here, Plaintiff can allege no more than that Defendant did just that. Plaintiff's complaint does not state a constitutional claim since it asserts no more than "private misuse of state procedures." *Gonzales-Morales*, 221 F.3d at 49 (citing *Lugar*, 457 U.S. at 940, 102 S. Ct. 2744). Unlike the Plaintiffs in *Gonzales-Morales*, here Plaintiff is not asserting that any state statutory scheme is defective. See *id.* Defendant is a private individual completely in control of her own actions. Her challenged activity does not result from the state's "exercise of coercive power," or with "significant encouragement, either overt or covert" from the state. *Brentwood Academy v. Tennessee Secondary School Athletic Association*, 531 U.S. 288, 296, 121 S. Ct. 924, 148 L. Ed. 2d 807 (2001) (quoting *Blum v. Yaretsky*, 457 U.S. 991, 1004, 102 S. Ct. 2777, 73 L. Ed. 2d 534 (1982)). Defendant has not operated as a "willful participant in joint activity with the State or its agents," *id.* (quoting *Lugar*, 457 U.S. at 941, 102 S. Ct. 2744), and she is not controlled by an "agency of the State." *Id.* (quoting *Pennsylvania v. Board of Directors of City Trusts of Philadelphia*, 353 U.S. 230, 231, 77 S. Ct. 806, 1 L. Ed. 2d 792 (1957)).

Finally, she has not been delegated a public function by the state, her actions are not "entwined with governmental policies," and the government is not "entwined [in the] management or control [of Defendant]." *Id.* (internal citations omitted). Defendant's decision to exercise her own legal right to pursue contempt proceedings against her former husband is purely a private action, and Plaintiff has no cognizable claim against Defendant under section 1983. Although Defendant is acting based on the predicate state court contempt order, it is completely up to her whether she wishes to pursue such an action. She is acting to enforce her rights under the law, but she is not a state actor.

his defeat in state court. *Id.* at 1004. The court in *Nesses* focused on the invasion of plaintiff's independent right to be judged by a tribunal uncontaminated by politics, and it stated that the plaintiff could sue to vindicate that right and show that the violation caused the state court decision to be adverse to him and, therefore, caused him harm. *Id.* at 1005. The court stated that where a plaintiff sues in federal court based on the violation of a right independent of the state court proceeding, that claim is not barred by *Rooker-Feldman*. However, the Court notes that Plaintiff places too much weight on the *Nesses* opinion, given that its discussion of the *Rooker-Feldman* doctrine is *dicta*, because the case was, in fact, decided on the merits and not upon jurisdictional grounds. *See Cain v. Ryan*, 171 F. Supp. 2d 813 (N.D. Ill 2001).⁶

The *Cain* decision casts even further doubt on the *Nesses* opinion. In *Cain*, the court rejected the “independent right” language of *Nesses* and found that “[o]nly a claim alleging an *injury* independent of the state-court decision avoids the bar of *Rooker-Feldman*.” *Id.* at 823 (emphasis in original). The plaintiff in *Cain* was a convicted sex offender, and he was referred for indefinite civil commitment under the Illinois Sexually Violent Persons Commitment Act after serving his sentence. The plaintiff sued the Illinois Attorney General and members of a special evaluation unit under 42 U.S.C. § 1983, claiming that his selection for indefinite commitment proceedings under the Act were arbitrary and discriminatory. *See id.* at 815. The court, in dismissing plaintiff's claim pursuant to *Rooker-Feldman*, found that such a claim was an attack on the state court judgment. While the plaintiff might have an independent right not to be selected for commitment proceedings arbitrarily or in a discriminatory manner, plaintiff's claims were barred by *Rooker-Feldman* because “he suffered no *injury* until the state court

⁶ Moreover, this Court finds *Nesses* to be lacking in persuasive effect in its substance.

acted.” *Id.* at 823. Clearly, Plaintiff here suffered no *injury* until the state court acted to enter its contempt order, and his efforts to focus the Court’s attention on Defendant’s actions are of no avail, especially when they are based on the very order that has originally injured him.

In sum, by claiming that he is entitled to damages for Defendant’s pursuit of her legal rights based on the state court judgments, as well as to an injunction against her further pursuit of such rights, Plaintiff’s current suit inextricably intertwines itself with the state court judgments. In issuing the July 22, 1994, order directing Plaintiff to pay \$2,500,000 into a court-administered account and the November 2, 1994, order finding Plaintiff in contempt, and by repeatedly upholding these original orders, the state courts have held that Plaintiff can and should turn over this money. It also appears from these decisions that Defendant may be entitled to a portion of these funds. A determination by this Court that Plaintiff may validly assert that Defendant has acted wrongfully towards Plaintiff by enforcing her legal rights, and that this Court may entertain such a suit, would run contrary to the consistent state court findings. Specifically, such a determination would certainly contradict the finding of the state court, upon which the contempt order is based, that Plaintiff’s “failure to comply with the July 22, 1994 Order is based solely upon his desire to deprive Intervenor/Wife of her portion of the marital assets.” *Chadwick v. Caulfield*, slip op. at 9. Under the *Rooker-Feldman* doctrine, this Court may not second-guess the decisions of the state courts, which found that Plaintiff has the ability to make the required payment and that Defendant is entitled to such payment. Therefore, Plaintiff’s claims must be dismissed.

III. CONCLUSION

For the foregoing reasons, the Court **ORDERS** that Defendant's Motion to Dismiss be, and it is hereby, **GRANTED**.

Gene Carter
Senior United States District Judge

Dated at Portland, Maine, this 12th day of June, 2003.

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